



STATE OF TENNESSEE
DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
500 DEADERICK STREET 5th Floor
NASHVILLE, TENNESSEE 37243

BILL HASLAM
GOVERNOR

MARIE WILLIAMS
COMMISSIONER

CIVIL RIGHTS:
TIPS for AGENCY PROVIDERS

1. The **Civil Rights Act of 1964** ([Pub.L. 88–352](#), 78 [Stat. 241](#), enacted July 2, 1964) is a landmark piece of [civil rights](#) legislation in the [United States](#)^[1] that outlawed major forms of discrimination against racial, ethnic, national and religious minorities, and women.^[2] It ended unequal application of voter registration requirements and [racial segregation](#) in schools, at the workplace and by facilities that served the general public (known as "public accommodations").

Powers given to enforce the act were initially weak, but were supplemented during later years. Congress asserted its authority to legislate under several different parts of the [United States Constitution](#), principally its power to regulate [interstate commerce](#) under [Article One](#) (section 8), its duty to guarantee all citizens [equal protection](#) of the laws under the [Fourteenth Amendment](#) and its duty to protect voting rights under the [Fifteenth Amendment](#). The Act was signed into [law](#) on July 2, 1964 by [President Lyndon B. Johnson](#), who would later sign the landmark [Voting Rights Act](#) into law. (Wikipedia, 2013)

The Civil Rights Act of 1964 has eleven (11) Titles.

2. Be knowledgeable of **Title VI (6)** of the Civil Rights Act of 1964 – “No person in the United States shall, on the grounds of **race, color or national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination ***under any program or activity receiving Federal financial assistance.***” <http://www.justice.gov/crt>
3. **Title VII (7)** of the Civil Rights Act of 1964 – Prohibits discrimination ***by covered employers*** on the basis of race, color, religion, sex or national origin.

4. Be aware that *Civil Rights protection has been expanded since 1964*:
 - Age Discrimination in *Employment* Act (*ADEA*) of 1967 (prohibits employment discrimination based on a person's age).
 - *Title IX (9)* of the *Education* Amendments of 1972 (prohibits discrimination based on a person's *gender*).
 - *Section 504 of the Rehabilitation Act of 1973* (prohibits discrimination against *people with disabilities* from receiving program benefits and services).
 - *Age Discrimination Act of 1975* (prohibits discrimination on the basis of *age in programs or activities receiving federal financial assistance*).
 - Americans with Disabilities Act (*ADA*) of 1990 (prohibits *people with disabilities in the areas of employment, state and local government services, public accommodations, transportation and telecommunications*. Unlike Section 504, ADA compliance is mandated for state and local governments or businesses that service the public even if they do not receive federal funds).
 - *T.C.A. 4-21-904 (on May 31, 1993, the state of Tennessee became the first state to pass legislation enforcing Title VI compliance in all of its departments, programs and agencies)*.
 - *Executive Order 13166 of August 2000 - improving access to services for persons with Limited English Proficiency (LEP)*. <http://www.lep.gov>
5. *Protected Classes* (characteristic of a person which cannot be targeted for discrimination) under Federal law:
 - *Race* – Civil Rights Act of 1964
 - *Color* – Civil Rights Act of 1964
 - *Religion* – Civil Rights Act of 1964
 - *National origin* – Civil Rights Act of 1964
 - *Age (40 and over)* – Age Discrimination in Employment Act of 1967
 - *Sex* – *Equal Pay Act of 1963* and Civil Rights Act of 1964
 - *Pregnancy* – Pregnancy Discrimination Act
 - *Citizenship* – Immigration Reform and Control Act
 - *Familial status* – Civil Rights Act of 1968 Title VIII (8): Housing cannot discriminate for having children, with an exception for senior housing
 - *Disability* status – Vocational Rehabilitation and Other Rehabilitation Services of 1973 and Americans with Disabilities Act of 1990
 - *Veteran* status – Vietnam Era Veterans' Readjustment Assistance Act of 1974 and Uniformed Services Employment and Reemployment Rights Act
 - *Genetic information* – Genetic Information Nondiscrimination Act

Individual states can and do create other protected classes, which are protected under that state's law. For Q&A contact: Tennessee Human Rights Commission at http://www.tennessee.gov/humanrights/about_thrc.html

6. Examples of ***Non-compliance with Title VI (6)***:

- Deny an individual any service, financial aid, other benefit provided under the program.
- Provide a service or benefit to an individual which is inferior (either in quantity or quality) to that provided to others in the program.
- Provide an individual with a service or benefit in a manner different from others under the program.
- Subject an individual to segregation in any manner related to the receipt of services or benefits under the program.
- Subject an individual to separate treatment in any manner related to receiving services or benefits, under the program.
- Restrict an individual in any way in the receipt of any advantage or privilege enjoyed by others under the program.
- Require different standards or conditions as prerequisites for accepting an individual into a program.
- Deny a person the opportunity to participate as a member of planning or advisory body which is an integral part of the program.
- Utilize criteria or methods of administration which (a) have the effect of subjecting individuals to discrimination or (b) operate to defeat or substantially impair the accomplishment of the objectives of the program.
- Permit discriminatory activity in a facility build in whole or part with Federal funds.
- Fail to provide services or information in a language other than English when significant numbers of potential or actual beneficiaries are of limited English speaking ability.
- Fail to advise the population eligible to be served or benefited by the program of the existence of the program.
- Subject an individual to discriminatory employment practices under a federally funded program whose objective is to provide employment.
- Locate a facility in any way which would limit or impede access to a federally funded service or benefit.

7. To ***Comply with Title VI (6)***, it is best practice to:

- Appoint an Agency Title VI Coordinator who coordinates agency Title VI (6) functions.
- Provide and maintain documentation of Title VI (6) Employee/Volunteer Training for all employees/volunteers upon employment/volunteering, and then, annually thereafter.
- Develop and maintain Title VI (6) Policy and Procedures (that address Title VI(6) implementation issues, including a complaint process, and LEP)
- Display Posters and Brochures in both English and Spanish (can be obtained by going to <http://www.tennessee.gov/behavioral-health>).
- Inform Service Recipients about Title VI and disseminate Title VI (6) information to the public (i.e. website, poster, bills, etc.)

- Have a written Title VI Complaint Process and Complaint Log (an example is on <http://www.tennessee.gov/behavioral-health>), that addresses:
 - How to file a complaint (www.justice.gov/crt/cor/complaint.php or Title VI (6) Hotline 1-888-848-5306);
 - That states that the complaint must be filed within 180 days of the alleged occurrence or when the alleged discrimination became known to the complainant;
 - That states that the complaint should be in writing and signed by both the complainant and the Agency Title VI (6) Coordinator.

Once a Title VI (6) complaint has been made, then:

- Log the complaint upon notification; then
 - Notify TDMHSAS via e-mail to Gwen Hamer (Mental Health) at gwen.hamer@tn.gov or Ken Horvath (Substance Abuse) at ken.horvath@tn.gov that a Title VI (6) complaint has been made; then
 - Determine the jurisdiction, acceptability, and the need for additional information upon receipt in order to investigate the merit of the complaint; then
 - Investigate the complaint, with
 - Final action identified within 60 days of the initial complaint, and
 - Provide the complainant with written results of the investigative findings with appeal instructions (that they are advised of their right to have their complaint reviewed by one of the following agencies if they are not satisfied with the agency decision – TDMHSAS Title VI(6) Coordinator, Tennessee Human Rights Commission, or U.S. Department of Health and Human Services (DHHS), Office of Civil Rights, Region IV(4) Office; then
 - Log the outcome of the complaint and notify TDMHSAS via e-mail to Gwen Hamer at gwen.hamer@tn.gov or Ken Horvath at ken.horvath@tn.gov of the outcome.
- Document in Policy and Procedures a ***Limited English Proficiency (LEP) Plan*** that addresses – “A person who does not speak English as their primary language, and has a limited ability to read, speak, write or understand English.” AND an annual assessment of the population is conducted by using the “Four Factor Analysis:”
 - I. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or Grantee;
 - II. The frequency with which LEP individuals come in contact with the program;
 - III. The nature and importance of the program, activity or service provided by the program to people’s lives; and
 - IV. The resources available to the Grantee and costs.

- Timely *submits to TDMHSAS a completed and signed TDMHSAS Title VI (6) Self- Survey*, when requested by TDMHSAS, which is due *annually* (i.e. between July 1 – July 30).

8. *Non-Compliance Statement:*

Failure or refusal to comply with Title VI (6) of the Civil Rights Act of 1964, T.C.A. 4-21-904, and TDMHSAS Title VI (6) guidelines, will result with the Grant Contract and/or Authorization to Vendor Agreement resulting in an administrative corrective action that may lead to sanctions of withholding of payments to the recipient under the contract until the recipient complies, and/or cancellation, termination or suspension of the Grant Contract and/or Authorization to Vendor Agreement, in whole or in part.

9. *Note* that:

The U.S. Department of Justice is the main Federal enforcement agency for Title VI (888) 848-3306,

while

The Tennessee Human Rights Commission is the Title VI enforcement agency for the State of Tennessee (800) 251-3589.